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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,676	03/09/2004	Carl D. Fuemmeler	MEPC 8636 UI	2630
1688	7590	09/30/2005	EXAMINER	
POLSTER, LIEDER, WOODRUFF & LUCCHESI 12412 POWERSCOURT DRIVE SUITE 200 ST. LOUIS, MO 63131-3615			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/796,676

Applicant(s)

FUEMMELER, CARL D.

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 7-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/1/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

1. The abstract of the disclosure is objected to because the various mentioned elements such as "top and bottom" of the pallet lack sufficient definition to understand the meaning of the reference. In line 3, "core ends" lacks antecedent basis. Correction is required. See MPEP § 608.01(b).

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 5, "two of the longitudinal top and bottom stringers" indicates two only of the stringers, and accordingly "the other two" in line 5 is inconsistent with the eight stringers defined in lines 2 and 4. See also claim 7.

In claim 2, line 3, "the top and bottom" lack antecedent basis.

In claim 4, line 1, and claim 5, line 1, "the width" should be plural, as all of the individual widths are being compared. However, there is insufficient recitation to support a "width" as being defined for the stringers, as they could be square or round in cross section.

In claim 5, line 2, "the edges of said stringers" lack antecedent basis.

In claim 6, line 2, it is not seen that the stringers define a single "width".

In claim 7, line 2, "A" should not be capitalized. In lines 8-9, "the distance between the outer surfaces of the top and bottom stringers" is indefinite, as the distance

Art Unit: 3728

between any one top stringer and any one bottom stringer varies. In lines 10-11, "the core extensions" lack antecedent basis, nor does "the spaces" in line 11.

In claim 8, line 2, "a flat top and bottom" defines a flat top, but not a "flat bottom".

In claims 10 and 11, lines 1-2 of each, "said pallet combinations" lack antecedent for plurality.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Lilienfeld (2,471,693). Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by De Pew et al. (2,873,935). Each discloses a pallet comprising four longitudinal top stringers (11-11-11-11; 4-4-4-4; respectively), three transverse ribs (10-10-10; 1-2-3), and four longitudinal bottom stringers (11-11-11-11; 5-5-5-5), two of the top and bottom stringers being located opposite each other at the ends of the transverse ribs (either pair of opposed outer top and bottom stringers in each patent) and two other top and bottom stringers located opposite each other on the ribs intermediate the ends of the ribs (either of the two central stringer pairs; 4 and 5 and 4' and 5').

As to claim 2, De Pew et al. disclose a square pallet.

As to claim 3, De Pew et al. disclose the spacing between an end stringer and its adjacent intermediate stringer is greater than the spacing between the intermediate stringers.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lilienfeld. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Pew et al. ('935). As to claim 2, to provide a pallet in a square shape is officially noted to have been old and well known to one of ordinary skill in the art, and the employment of a square shape is not seen to provide any new and unexpected result.

As to claim 3, De Pew et al. disclose the spacing between an end stringer and its adjacent intermediate stringer is greater than the spacing between the intermediate stringers.

As to claim 4, each shows the widths of the stringers and the ribs as being similar or substantially the same. To provide them exactly the same would fail to provide any new and unexpected result by such a provision.

As to claim 5, each discloses the widths of the stringers and ribs to be greater than the thickness of the stringers or the ribs.

As to claim 6, see Figure 1 of each patent.

8. Claims 7-11 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are analogous pallets and palletized combinations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

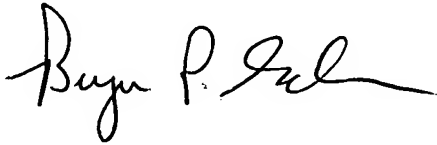
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Application/Control Number: 10/796,676

Page 6

Art Unit: 3728

you have questions on access to the Private PAIR system, contact the Electronic  
Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bryon P. Gehman  
Primary Examiner  
Art Unit 3728

BPG